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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,300	06/20/2003	Jeffrey P. Whittemore	ZIP-0008	7713

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07/25/2008

EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT	PAPER NUMBER
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3632

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/600,300	Applicant(s) WHITTEMORE ET AL.	
	Examiner Gwendolyn Baxter	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 20-38 and 48-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 48-52 is/are allowed.
- 6) ☒ Claim(s) 1-16 and 20-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the seventh Office Action for application serial number 10/600,300, Partition Mount with Extended-Length Head filed June 20, 2004. Claims 1-16, 20-38, and 48-52 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-9, 11, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,490,749 to Morad in view of U.S. Patent No. 6,718,589 to Kimbro and U.S. Patent 3,197,169 to Burrows. Morad teaches a mount comprising an elongated body (20), a curtain interface (14) and a coupler (18). The elongated body has a longitudinal axis. The curtain interface is coupled to an upper surface of the body. The coupler is adapted for coupling the elongated body to a mounting member (9). Additionally, the coupler includes an interface (34, 42) adapted to receive a mounting member. The coupling positioned of the coupler is adjustable over a range of positions relative to the longitudinal axis of the body. The curtain interface is a compressible material selected from the group consisting of foam, polyurethane foam, extruded vinyl and rubber strips, namely foam. The body comprises

a U-shaped slot rail (24), wherein the curtain interface is mounted in the slot. The coupler is removably mountable to the body. Quick-release arms (32) engage a feature on the body for removably mounting the coupler to the body. The position of the coupler on the body can be adjusted variably. A mounting member comprises a mounting pole (9), wherein the interface is adapted to receive the mounting pole. A length of the body is substantially greater than a width of the body. The mounting member comprises a pole for mounting to the coupler, wherein the body is rotatable relative to the pole, when the coupler is threadably engaging the interface. However, Morad fails to teach the mounting pole including a compression mechanism along a longitudinal axis thereof and fails to teach the length of the elongated body being at least one foot.

Kimbro teaches a mount comprising an elongated body (11), a curtain interface (12), a coupler (14) and a mounting member (15, 16). The mounting member comprises a pole for mounting to the coupler that is adjustable in length. The mounting pole includes a compression mechanism (20) along a longitudinal axis thereof. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mounting member as taught by Morad to have incorporated the mounting member as taught by Kimbro, as mere substitution of functionally equivalent parts for the purpose of providing a mounting member that is extendable. Additionally, it would have been an obvious matter of design choice to have made the body one foot, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of

ordinary skill in the art. However, Morad in view of Kimbro fails to teach the mounting member to be fixed between a first surface of a room and a second surface of a room such that when the mounting member is under compression between the first and second surfaces of the room to retain the mounting member and body in a fixed position relative to the first and second surfaces of the room.

Burrows teaches a device having a mounting member (11) including a guard (12) attached to the free end of the mounting member such that when the device is lean against a wall (the first surface) the position of the device is maintained relative to the floor (the second surface). It would of been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mount as taught by Morad in view of the Kimbro to have incorporated the guard as taught by Burrows for the purpose of preventing marring of the walls when the mount is lean against that surface (column 1, line 13+).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morad in view of Kimbro and Burrows, as applied to claims 1-5, 7-9, 11 and 15-17, in further view of U.S. Patent No. 4,077,083 to Siemund. Morad in view of Kimbro and Burrows teaches the limitations of the base claim, including the elongated body, namely the rails being made from plastic. However, Morad in view of Morad and Burrows fails to teach the rail of the elongated body comprising an extrusion.

Siemund teaches an elongated body (14) being made from a unitary piece of plastic. The elongated body is made by a method of molding or extruding. It would have been obvious to one having ordinary skill in the art at the time the invention was

made to have modified the method by which the elongated body including the rails are made as taught by Morad in view of Kimbro and Burrows to have incorporated the extrusion as taught by Siemund providing an alternate method of making the elongated plastic body.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morad in view of Kimbro and Burrows and in further view of U.S. Patent No. 3,433,510 to Hultstrum. Morad in view of Kimbro and Burrows teaches the limitations of the base claim, excluding the ball and socket joint.

Hultstrum teaches a mounting comprising a coupler that includes one of a ball (24) and a socket joint (22) for receiving a corresponding one of a socket and a ball joint of the mounting pole (12). Additionally, the coupler further includes a retainer (50) for preventing lateral rotation of the body relative to the mounting pole. The ball joint of the mounting pole further includes a flange (62) having a flat surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the coupler as taught by Morad in view of Kimbro and Burrows to have incorporated the ball and socket joint as taught by Hultstrum for the purpose of providing swivel structure enabling the joined parts to be rigidly interconnected in a wide range of possible relative orientations.

Claims 20-26, 28-31, and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morad in view of Kimbro, Burrows and Hultstrum, as applied to claims 12-14, and in further view of U.S. Patent No. 5,551,115 to Newville. Morad in view of Kimbro, Burrows and Hultstrum teaches the limitations of the base claim,

excluding the coupler limiting lateral rotation of the body relative to the pole, while permitting rotation of the body relative to the pole in another direction of rotation.

Newville teaches a coupler having a socket (20) and ball configuration (22). The coupler limits lateral rotation of the body relative to the pole when the pole is received and extends between members (20). See column 2, lines 20+. Additionally, the coupler permits rotation of the body relative to the pole in another direction of rotation. See column 2, lines 15+. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the pole as taught by Morad in view of Kimbro, Burrows and Hultersturm to have incorporated the teaching of the socket as taught by Newville for the purpose of cleaning or scrubbing in especially relatively narrow spaces or to align the elongated body in a horizontal alignment to facilitate scrubbing of relatively wide spaces.

Regarding claim 37, Morad in view of Kimbro, Burrows, Hultersturm and Newville teaches the limitations of the base claim, excluding the length of the elongated body being at least one foot. It would have been an obvious matter of design choice to have made the body one foot, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Regarding claim 38, the coupler (20) comprises a hinge (22) that rotatably couples the body relative to the pole as shown by Newville.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morad in view of Kimbro, Burrows, Hultersturm and Newville, and in further view of Siemund.

Morad in view of Kimbro, Burrows, Hultstrum and Newville teaches the limitations of the base claim, including the elongated body, namely the rails being made from plastic. However, the references fail to teach the rail of the elongated body comprising an extrusion.

Siemund teaches an elongated body (14) being made from a unitary piece of plastic. The elongated body is made by a method of molding or extruding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the method by which the elongated body including the rails are made as taught by Morad in view of Hultstrum, Newville to have incorporated the extrusion as taught by Siemund providing an alternate method of making the elongated plastic body.

Allowable Subject Matter

Claims 10 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 48-52 are allowed.

Response to Arguments

Applicant argues that the references of record fail to teach a mount includes an elongated body having a longitudinal axis, a curtain interface positioned at a top surface of the body. Applicant's attention is directed to figure 2 of the Morad reference, wherein

the elongated body 20 has a top surface shown at 22 and the designated curtain interface 14 is shown to be attached to the top surface of the body.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-

6814. The examiner can normally be reached on Monday-Wednesday, 8:30am - 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, J. Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gwendolyn Baxter/
Primary Examiner
Art Unit 3632

July 18, 2008